

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6057 of 1988

with

SPECIAL CIVIL APPLICATION No 6197 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SATARDA GROUP SEVA SAHAKARI MANDLI LTD

Versus

MAMLATDAR

Appearance:

1. Special Civil Application No. 6057 of 1988
NOTICE SERVED for Petitioner
Ms. Siddhiben Talati, AGP for Respondent No. 1, 2, 3
 2. Special Civil ApplicationNo 6197 of 1988
MR SG UPPAL for Petitioner
NOTICE SERVED for Respondent No. 1, 3
Ms. Siddhiben Talati, AGP for Respondent No. 2
-

Date of decision: 03/03/2000

ORAL JUDGEMENT

Learned advocate Mr. Uppal is appearing for the petitioners and Ms. Siddhiben Talati, learned AGP is appearing for the respondent State. Brief facts of the petition being special civil application no.6057 of 1988 are that the order at Annexure "A" dated 10.8.88 came to be passed by the Mamlatdar, Malpur in favour of the petitioner Mandali granting permission to shift Fair Price Shop from House NO. 22 to the House Plot No. 348 from Old Vasahat to the New Vasahat. Said order annexure "A" has been implemented and acted upon by the respondents. Accordingly, the licence was also corrected and thereafter, the order at annexure "C" came to be passed on 29.8.88 by the District Supply Officer, District Sabarkantha, Himatnagar. It has been contended that the order dated 29.8.1988 has been passed by the respondent authorities at the instance of the MLA of Malupur Constituency who was not competent to issue such order as laid down in case of State of Punjab versus Harikishan, 1966 SC 1081 and the Respondent NO.2 has no power or authority to pass such an order. Therefore, prayer has been made to quash and set aside the order at Annexure "C" and to confirm the order at ANNEXURE "A" to the petition.

In special civil application no. 6197 of 1988 which is a petition filed by Chamar Makanabhai Kalabhai, the petitioner has prayed for the relief against the respondents in respect of issuance of new quota of articles of rationing which are to be issued under the Gujarat Essential Articles (Licencing, Control and Stock Declaration) Order, 1981. Said petition has been admitted on 27.10.1988 by issuing rule thereon and the petition has been ordered to be heard with special civil application NO. 6057 of 1988. This Court, while issuing rule, has granted interim relief to the effect that the fair price shop for Satarda village in Malpur Taluka of Sabarkantha District shall be permitted to be run in Darji Muljibhai Trikambhai's house in plot no. 348. It was further ordered that the said shop will be run by Satarda Group Seva Sahakari Mandali Ltd. which is the licensee of the Fair Price Shop. Respondents nos. 1 and 2 were directed to supply necessary food grains and other essential commodities in the aforesaid shop premises at the earliest, so that during the on coming diwali festival days, the village people are not deprived of the

supply of essential articles. The said interim order passed by this court while issuing the rule has not been challenged by the respondents before the higher forum and the same is in operation. Considering the facts and circumstances of both the petitions and also considering the interim order passed by this court on 27th October, 1988, the petitioner was permitted to run the Fair Price Shop at the aforesaid premises and the said arrangement is continuing since last about more than 12 years. Therefore, in view of the passage of about 12 years and also in view of the fact that the respondents have also accepted the same by not preferring any appeal against the interim order passed by this court at the time of issuance of rule, now, it is not just and proper to disturb the same. In that view of the matter, this petition has become infructuous and is required to be disposed of as such with a direction to continue the same arrangement. Accordingly, this petition is ordered to be disposed of. Rule is discharged. There shall be no order as to costs.

3.3.2000. (H.K.Rathod,J.)

Vyas